

REMARKS:

Claims 51-70 are pending in the application and have been rejected.

§112 Rejections:

Claims 51-70 are rejected under 35 U.S.C. 112, first paragraph as failing to comply with enablement requirements. Claim 53 and 60 are rejected under 35 U.S.C. 112, second paragraph as indefinite. The Examiner contends that the recited language directed to the first and second images having the same aspect ratio is not supported in the specification.

The Applicant respectfully points out that the application and the drawings support the claim language “wherein the second image has the same aspect ratio as the first image” for the following reasons:

1. The aspect ratio of an image is its displayed width divided by its height (usually expressed as "x:y") (see www.wikipedia.org).

2. Referring to FIGS. 3A-3D, the claimed image has the same aspect ratio regardless of degree of rotation or direction of orientation, because height of the first image (see FIG. 3A) corresponding to height B of the display (see FIG. 2) corresponds to the width C of the second image (see FIG. 3B), and width of the first image (see FIG. 3A) corresponding to width A of the display (see FIG. 2) corresponds to height D of the second image (see FIG. 3B), after the image is rotated 90 degrees, such that where the height D of the second image is approximately equal to width C of the display screen (see FIG. 3B), the width D of the second image is approximately equal to square of the width A of the display screen divided by height B of the display screen ($D=A^2 / B$).

3. It is respectfully submitted that a person of ordinary skill reading the specification as provided in light of the drawings, particularly FIGS. 3A-3D, would fully understand the above noted calculation without undue experimentation. However, for a better understanding of the above please refer to Exhibit 1 attached herein which provides additional details on how the relationship $D=A^2 / B$ is derived.

Further, the Applicant respectfully points out that the application and the drawings support the claim language “wherein the first and second display areas are non-overlapping and the second display

area is positioned between the first display area and at least one edge of the display screen,” as clearly illustrated in FIG. 3B.

The Applicant respectfully submits that the §112 rejections should be withdrawn and not reasserted again in light of the provided arguments in this response and the previous response.

§103 Rejections:

Claims 51-70 are rejected under 35 U.S.C. 103(a) over US 6,154,214 (“Uyehara”) in view of US 6,661,632 (“Register”).

Uyehara is directed to an electronic device for displaying “text” of an electronic book. That is, a person can purchase a book in electronic format and read it using the reader device disclosed in Uyehara (See Abstract, col. 1, lns. 15-30). Referring to col. 5, ln. 65 to col. 6, ln. 36, and Figs. 17 and 18, the Uyehara’s reader has a “touch screen” that allows a user to tap a displayed arrow on the screen to change the orientation of text displayed thereon. As shown and described, the reader is for the purpose of displaying “text.” As such, when the orientation of the text is changed from portrait to landscape, the width-height aspect ratio of the displayed text changes, as a function of a change in the line wrapping.

The Examiner has referred to FIGS. 17 and 18 of Uyehara contending that those two figures show a rotated “image”. It is respectfully noted that rejection of claims using a drawing requires that “the picture must show all the claimed structural features and how they are put together” and “[t]he drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art.” M.P.E.P. §2125.

Respectfully, Uyehara not only fails to teach the claimed structural features in claim 51 but also teaches away from the recited invention in claims 51-70 for the following reasons:

1. Uyehara is not directed to viewing “a photographic image” as claimed, but is used for reading “text.”

2. With respect to claim 51, Uyehara fails to teach or suggest “displaying at least first and second icons in a second display area of the display screen, wherein the first and second display areas are non-overlapping and the second display area is positioned between the first display area and at least one

edge of the display screen, and wherein the first and second icons are associated with a function for controlling image display on the hand-held mobile communication terminal.”

3. Uyehara teaches away from the present invention as claimed in independent claims 57 and 64, by suggesting that the rotated text has a different width-height aspect ratio in comparison to the originally displayed text. In contrast, the claims recite that “the second image has the same aspect ratio as the first image.”

4. Because Uyehara is only concerned with changing the orientation of the displayed text, it does not suggest adjusting the image size so that it fits in the display. Instead, the text is wrapped in a different format and it is not clear if all or more of the text is displayed after it is rotated. Thus, under Uyehara, the produced result is not a rotated version of the same “photographic image” adjusted in size to fit in the display. Instead, Uyehara teaches displaying the rotated “text” as adjusted with respect to its wrapping.

5. The Examiner contends that rotation icon 80 and hotkey icon 82 disclosed in Uyehara read on “at least first and second icons in a second display area of the display screen, wherein the first and second display areas are non-overlapping and the second display area is positioned between the first display area and at least one edge of the display screen, and wherein the first and second icons are associated with a function for controlling image display on the hand-held mobile communication terminal.” However, in direct contrast to the Examiner’s contention, Uyehara teaches that “hotkey 82” performs a function that is assigned to “any of the menu items listed in Table 1.” (See col. 7, lns. 1-35.) Respectfully, none of the functions listed in Table 1 are for controlling the display of a photographic image as claimed in claim 51. Instead, the listed function are related to display of textual materials or menus.

6. The Examiner admits that Uyehara fails to disclose that the first and second display areas are non-overlapping. The Examiner, however, contends that Register can be combined with Uyehara to suggest the same. It is respectfully submitted that one of ordinary skill would not have been motivated to combine Register and Uyehara and even if the references can be combined Register still fails to cure the deficiencies of Uyehara:

a. The Applicant has carefully reviewed the cited figures and the related portions of the description in Register. No portion of Register either alone or in combination with Uyehara teaches,

suggests or discloses rotating a “photographic image” such that interacting with the mobile terminal causes the first image to change orientation such that the second image is same as the first image but displayed in a second orientation in relation to the display unit and adjusted in size to fit the display unit.

b. On page 11 of the Office Action, the Examiner contends that it would have been obvious to combine teachings of Uyehara and Register for the purpose of selecting “a text orientation which corresponds to the user’s preferred device orientation and gripping method.” Respectfully, the Examiner’s one line remark for the combination is incomprehensible. Clarification is requested. Further, beyond making this remark, the Examiner fails to provide any support or reason for the combination.

c. Further, Register and Uyehara teach away from one another. Particularly, Register is directed to a system with toggle buttons with non-momentary positions, such that toggling a button allows a user to choose from among a set of soft icons on the display screen of a handheld computer. More particularly, toggling a single button toward a first direction allows a user to choose a first soft icon and toggling the same button toward a second direction allows a user to choose a second soft icon display on the screen. (See col. 3, lns. 35-53.) In contrast, the soft keys disclosed in Uyehara are displayed on a touch screen display, and are directly responsive to a user’s touch input, as opposed to an “externally” provided physical button. Since Uyehara recommends the use of a touch screen for entering input to the system and Register suggest the exact opposite (i.e., use of external buttons), it would be unreasonable to suggest that one of ordinary skill would be motivated to combine the two references in the direction of the claimed invention.

d. Even further, referring to FIG. 17, the soft arrows 240, 242, 244 and 246 are conspicuously illustrated as overlapping with the displayed text. Therefore, absent any explicit suggestion or disclosure on either of the two references, it is respectfully submitted that the Uyehara reference cannot be combined with Register for the purpose of establishing a *prima facie* case of obviousness that a person of ordinary skill would have done the opposite. In fact, Uyehara’s filing post dates that of Register’s by about three years. If it would have been obvious to combine the teaching of Register with Uyehara, one would expect that there would be a suggestion of such combination within Uyehara. However, no such teaching or reference is made in Uyehara because Uyehara is concerned with solving a different problem than that contemplated by Register, and particularly because the two references are directed to features associated with two non-analogous displays (i.e., a touch screen vs. a regular screen).

In summary, since the cited references either teach away from each other and the claimed invention or are unrelated to the claimed elements, a reasonable person would not have been motivated to combine their teachings in the direction of the invention. Prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining the teachings.” In re Sernaker, 217 USPQ 1, 6 (Fed. Cir. 1983). Further, it is well settled that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

There is no support in the Office Action why it would be obvious to a person of ordinary skill to adopt the image rotation method disclosed in handheld computing device of Register with the text reader of Uyehara. Again, noting the filing dates of the cited references, Uyehara was filed after Register. If incorporation of the method of Register into Uyehara was obvious to one of ordinary skill, then the later reference would have suggested it. Since obviousness may not be established by hindsight reconstruction or conjecture, Applicant invites the Examiner to point out the alleged motivation to combine with specificity, or alternatively provide a reference or affidavit in support thereof pursuant to MPEP §2144.03.¹

Accordingly, it is respectfully submitted that the cited prior art references cannot be combined to teach the claimed invention. Further, even if one is modified in accordance with the teachings of the others, the resultant modification would still fail to teach, suggest, or disclose at least one of the following claimed elements:

- (1) displaying a first image on a display screen of a hand-held mobile communication terminal configured to communicate voice data in a wireless communication network,
- (2) wherein the first image comprises a photographic image;
- (3) displaying a second image in a first display area of the display screen, in response to a user interacting with the mobile communication terminal
- (4) to affirmatively control at least a first and a second direction of rotation for an image displayed on the display screen,

¹ “The rationale supporting an obviousness rejection may be based on common knowledge in the art or “well-known” prior art . . . If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position. When a rejection is based on facts within the personal knowledge of the examiner . . . the facts must be supported, when called for by the applicant, by an affidavit from the examiner.”

(5) wherein the second image comprises a rotated version of the first image relative to the display screen,

(6) wherein at least one of a first length and a second length of the second image is adjusted in size so that the second image is displayed in the **first display area** of the display screen, and

(7) displaying at least **first and second icons** in a **second display area** of the display screen,

(8) wherein the **first and second display areas** are **non-overlapping** and

(9) the second display area is positioned between the first display area and at least one edge of the display screen, and

(10) wherein the **first and second icons** are associated with a function for controlling **image display** on the hand-held mobile communication terminal.

(11) wherein the first image and the second image have approximately **same aspect ratio**.

(12) wherein **the first length of the second image is approximately equal to a first length of the display screen, and the second length of the second image is approximately equal to square of the first length of the display screen divided by a second length of the display screen.**

For the above reasons, the invention as recited in claim 51 is distinguishable from Uyehara and Register, either alone or in combination. Independent claims 57 and 64 substantially incorporate the elements of claim 51 and are likewise distinguishable from the cited references.

It is noteworthy that “[i]n rejecting claims under 35 U.S.C. §103, the examiner bears the initial burden of presenting a prima facie case of obviousness. ‘A prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.’ *In re Rijkaert*, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). For the above reason, the Examiner has failed to establish a prima facie case of obviousness.

Therefore, the invention as recited in independent claims 51, 57 and 64 is distinguishable over the references cited by the Examiner and claims 51, 57 and 64 should be in condition for allowance. Claims 52-56, 58-63 and 65-70 respectively depending from said independent claims should be in condition for allowance by the virtue of their dependence on allowable base claims.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California, telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
Lee, Hong, Degerman, Kang & Schmadeka

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By: 

Lew Edward V. Macapagal
Registration No. 55,416
Attorney for Applicant(s)

Customer # 035884

Enclosure: Exhibit I